

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
J. FREDERICK MOTZ
UNITED STATES DISTRICT JUDGE

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April 11, 2014

MEMO TO COUNSEL RE: United States of America v. \$91,639.70
Civil No. JFM-13-3541

Dear Counsel:

I have reviewed the memoranda submitted in connection with claimants' motion to dismiss.

I believe that the Third Circuit's holding in United States v. 8,221,877.16 in U.S. Currency, 330 F.3d 141, 160-61 (3d Cir. 2003), is clearly correct. There simply is no ambiguity in the language of 18 U.S.C. §984(b). The section expressly provides that no action based upon §984 "may be commenced more than 1 year from the date of the offense." According to the allegations in the complaint, this action was commenced more than 1 year after the date of the offense alleged in the complaint. To the extent that the United States argues that the unambiguous language of the statute does not accurately reflect the intent of Congress, the remedy is to have Congress amend §984(b), not to ask a court to disregard the clear language of the statute as enacted.

I will, however, permit the United States to amend its complaint. If in good faith the United States can allege that structuring occurred within 1 year of the commencement of this action, it may do so. However, any allegation to that effect is subject to the strictures of Fed. R. Civ. P. 11. If the United States does not have any basis for alleging that criminal conduct occurred within 1 year of the commencement of this action, this action must be dismissed.

Despite the informal nature of this letter, it should be flagged as an opinion and docketed as an order.

Very truly yours,

/s/

J. Frederick Motz
United States District Judge